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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/598,208	08/21/2006	Gerardus Henricus Broeksteeg	US040350US	1804

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BRIARCLIFF MANOR, NY 10510

EXAMINER

HUERTA, ALEXANDER Q

ART UNIT	PAPER NUMBER
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2427

MAIL DATE	DELIVERY MODE
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05/01/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Advisory Action Before the Filing of an Appeal Brief	Application No. 10/598,208	Applicant(s) BROEKSTEEG, GERARDUS HENRICUS	
	Examiner Alexander Q. Huerta	Art Unit 2427	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 20 April 2009 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
- b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
- (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☐ They raise the issue of new matter (see NOTE below);
- (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).

5. ☒ Applicant's reply has overcome the following rejection(s): 101 Rejection of Claim 21.

6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).

7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____.

Claim(s) objected to: _____.

Claim(s) rejected: _____.

Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).

9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).

10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.

12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). _____

13. ☐ Other: _____.

/Scott Beliveau/
 Supervisory Patent Examiner, Art Unit 2427

Continuation of 11. does NOT place the application in condition for allowance because: Applicant's arguments, see pages 5-6, filed 20 April 2009, with respect to Claim 21 have been fully considered and are persuasive. The 101 Rejection of Claim 21 has been withdrawn.

On pages 7-9 of the Applicant's Response, applicant argues that the combination of Goto and West is improper as Goto teaches away from such a combination. Specifically, applicant argues that the features of Goto require defined time slots.

The Examiner respectfully disagrees with Applicant's arguments because Goto teaches of a PVR in which user can record and playback programs. The OSD processor superimposes the on-screen information (OSI) on the program signal outputted to the screen. The on-screen information comprises a time-shift bar which displays color coded portions representing the length of recorded programs. As shown in Fig. 8, the portions are labeled with tags such as "Drama", "Recipe", and "News" which indicate the names of the respective cached program portions. The "Recipe" program is depicted as having a recorded length of 30 minutes (i.e. 11:30 to 12:00), however does not necessarily mean all shows included on the time shift bar are required to have defined time slots. Rather, the color coded sections of the time shift bar simply represent the portion of the programs that were recorded and available for playback. For instance, the "News" program recording starts at 12:00 has available playback duration of 15 minutes (Col. 16 lines 35-43, Col. 16 line 59-Col. 18 line 8, Figs. 6-8). While Goto teaches the display of recorded programs on a time shift bar, Goto failed to explicitly teach the display of markers that indicate when a user changes channel. West et al. discloses a progress bar which displays a surfed channel that user recently viewed. The colored portions of the bar represent recorded segments of programs that the viewer was watching while channel surfing, while segment (1232) represents the unavailable portion of the program ([0109], [0111]-[0112], Figs. 11A-B, 12-15).

Thus, one of ordinary skill in the art would have been motivated to combine Goto in view of West to allow the viewer to clearly and understandably distinguish between content they have buffered versus content that is unavailable (i.e. hasn't been recorded) on the time-shift bar when they are engaging in channel surfing behavior.